

1 **FEDERAL ELECTION COMMISSION**  
2  
3 **FIRST GENERAL COUNSEL'S REPORT**  
4

5 **MUR: 7133**

6 DATE COMPLAINT FILED: September 12, 2016

7 DATE OF NOTIFICATIONS: September 19, 2016

8 RESPONSE RECEIVED: December 7, 2016

9 DATE ACTIVATED: January 25, 2017  
10

11 EARLIEST SOL: March 29, 2021

12 LATEST SOL: April 15, 2021

13 ELECTION CYCLE: 2016  
14

15 **COMPLAINANT:**

Howard S. Morris

16  
17 **RESPONDENTS:**

Paul R. Chabot

18 Paul Chabot Congress and Kelly Lawler in her  
19 official capacity as treasurer  
20

21 **RELEVANT STATUTES**  
22 **AND REGULATIONS:**

52 U.S.C. § 30101(8), (26)

52 U.S.C. § 30104(b)

52 U.S.C. § 30116(a), (f)

52 U.S.C. § 30122

11 C.F.R. § 100.33

11 C.F.R. § 100.52(a)-(b)

11 C.F.R. § 103.3(b)

11 C.F.R. § 104.3(a)

11 C.F.R. § 110.4(b)

11 C.F.R. § 110.9

11 C.F.R. § 110.10

11 C.F.R. § 110.19  
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34 **INTERNAL REPORTS CHECKED:**

Disclosure Reports

35  
36 **FEDERAL AGENCIES CHECKED:**

Office of the Clerk of the United States House of  
Representatives  
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39 **I. INTRODUCTION**

40 The Complaint in this matter alleges that Paul Chabot and his principal campaign  
41 committee, Paul Chabot Congress and Kelly Lawler in her official capacity as treasurer (the  
42 "Committee"), failed to accurately report the source of a March 2016 loan to the Committee.  
43 The Committee reported that Chabot loaned his campaign \$50,000 from his "personal funds,"

1 but the Complaint argues that the loan actually came from an account owned by Chabot's minor  
2 children. Therefore, the Complaint alleges, the Committee violated the Federal Election  
3 Campaign Act of 1971, as amended (the "Act"), by accepting an excessive contribution and  
4 misreporting the source of the contribution, and Chabot violated the Act by making a  
5 contribution in the name of another. Because the source of the funds Chabot used for the loan is  
6 unclear, we recommend that the Commission find reason to believe that the Committee violated  
7 52 U.S.C. § 30104(b) and authorize an investigation to determine the source of the \$50,000 loan.

## 8 II. FACTUAL AND LEGAL ANALYSIS

### 9 A. Factual Background

10 Chabot was a candidate for Congress in California's 31<sup>st</sup> Congressional District during  
11 the 2014 and 2016 election cycles.<sup>1</sup> Paul Chabot Congress, Chabot's principal campaign  
12 committee,<sup>2</sup> disclosed in its 2016 April Quarterly Report that Chabot loaned the Committee  
13 \$50,000 on March 29, 2016, two days before the close of the quarterly reporting period.<sup>3</sup> The  
14 Committee identified the source of the loan as Chabot's "personal funds" and stated that the loan  
15 was for the 2016 primary election.<sup>4</sup> The Committee's subsequent 2016 Pre-Primary Report  
16 revealed that the Committee had paid back the loan by April 14, 2016.<sup>5</sup> It made one \$25,000

<sup>1</sup> Paul R. Chabot, Amended Statement of Candidacy (Oct. 26, 2014); Paul R. Chabot, Statement of Candidacy (Feb. 23, 2015). Chabot was an unsuccessful Republican candidate in both the 2014 and 2016 General Elections. Javier Panzar, *Pete Aguilar Wins Second Term in San Bernardino Area's 31<sup>st</sup> Congressional District*, L.A. TIMES, Nov. 9, 2016, <http://www.latimes.com/nation/politics/trailguide/la-na-election-aftermath-updates-trail-aguilar-wins-second-term-in-san-1478709073-htmlstory.html>.

<sup>2</sup> Statement of Organization, Paul Chabot Congress (Feb. 25, 2014).

<sup>3</sup> Schedule C, 2016 April Quarterly Report, Paul Chabot Congress (April 15, 2016).

<sup>4</sup> *Id.*

<sup>5</sup> Schedules B and C, 2016 Pre-Primary Report, Paul Chabot Congress (May 26, 2016).

1 disbursement to Chabot on April 11, 2016, and a second \$25,000 disbursement to Chabot on  
2 April 14, 2016.<sup>6</sup>

3 The Complaint alleges that, contrary to the Committee's 2016 April Quarterly Report, the  
4 loan appears to have come from an account held by Chabot's minor children.<sup>7</sup> The Complaint  
5 bases its allegation on Chabot's Financial Disclosure Reports ("FD Reports") to the U.S. House  
6 of Representatives.<sup>8</sup>

7 Chabot filed one FD Report during the 2014 election cycle and two during the 2016  
8 election cycle.<sup>9</sup> Chabot filed his 2014 FD Report on May 21, 2014, covering the period of  
9 January 1, 2013, to April 20, 2014.<sup>10</sup> During the 2016 election cycle, Chabot filed both of his  
10 reports on May 16, 2016.<sup>11</sup> He stated that one report was for "filing year 2015" and the other  
11 was for "filing year 2016."<sup>12</sup> Chabot did not indicate with any more specificity which dates the  
12 2015 and 2016 reports covered.<sup>13</sup>

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<sup>6</sup> *Id.*

<sup>7</sup> Compl. at 1-2 (Sept. 12, 2016). Chabot and his wife have four children, all of whom were under the age of ten in 2016. See Paul Chabot for Strong America, Photograph on FACEBOOK (Dec. 13, 2016) (showing a picture of Chabot's 2016 family Christmas card, which states that his children range from ages three to nine).

<sup>8</sup> Compl. at 2.

<sup>9</sup> See Paul Chabot, May 21, 2014 Financial Disclosure Report, Office of the Clerk of the U.S. House of Representatives (May 21, 2014) ("2014 FD Report"); Paul R. Chabot, Filing Year 2015 Financial Disclosure Report, Office of the Clerk of the U.S. House of Representatives (May 16, 2016) ("2015 FD Report"); Paul R. Chabot, Filing Year 2016 Financial Disclosure Report, Office of the Clerk of the U.S. House of Representatives (May 16, 2016) ("2016 FD Report").

<sup>10</sup> 2014 FD Report, *supra* note 9.

<sup>11</sup> 2015 FD Report, *supra* note 9; 2016 FD Report, *supra* note 9.

<sup>12</sup> 2015 FD Report, *supra* note 9; 2016 FD Report, *supra* note 9. The "filing year 2015" report was a year late. See U.S. HOUSE OF REPRESENTATIVES COMM. ON ETHICS, INSTRUCTION GUIDE: FINANCIAL DISCLOSURE STATEMENTS AND PERIODIC TRANSACTION REPORTS 3 (2015) ("FD Report Instruction Guide").

<sup>13</sup> 2015 FD Report, *supra* note 9; 2016 FD Report, *supra* note 9. According to the House of Representatives' instructions for FD Reports, Chabot's 2015 report should have covered calendar year 2014 through within 30 days of May 15, 2015. See FD Report Instruction Guide, *supra* note 12, at 3-4, 6. His 2016 report should have covered calendar year 2015 through within 30 days of May 16, 2016. See *id.*

1 The Complaint observes that, in the 2015 FD Report, Chabot stated that one or more of  
2 his children owned an asset worth \$50,001-\$100,000.<sup>14</sup> In the 2016 FD Report, however, that  
3 asset was shown as being worth only \$1-\$1,000.<sup>15</sup> Because Chabot's other reported assets  
4 apparently stayed the same or increased between the 2015 and 2016 reporting periods, the  
5 Complaint deduces that the \$50,000 loan on March 29, 2016, must have come from the  
6 children's asset — allegedly the only asset that decreased in value.<sup>16</sup> Accordingly, the  
7 Complaint argues that Chabot violated the Act by using his name to effect a contribution in the  
8 name of another, and that the Committee violated the Act by accepting an excessive contribution  
9 and failing to accurately report the source of the contribution.<sup>17</sup>

10 Chabot provided a two-sentence response to the Complaint: "There is no merit to this  
11 complaint. It is fictitious."<sup>18</sup> The Committee did not respond.

12 **B. Legal Analysis**

13 The Act defines "contribution" as "any gift, subscription, loan, advance, or deposit of  
14 money or anything of value made by any person for the purpose of influencing any election for

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<sup>14</sup> Compl. at 2.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.* The Complaint fails to acknowledge that Chabot also had an individually-held asset, worth a maximum of \$15,000, that disappeared between the 2015 and 2016 reports. Compare 2015 FD Report, *supra* note 9, with 2016 FD Report, *supra* note 9. However, because the March 29, 2016, loan was for \$50,000, Chabot could not have used his \$15,000 asset alone to finance the loan. Thus, the Complaint, construed in the light of this information, appears to allege that the children's asset was the only asset that decreased *by enough* to cover the loan.

<sup>17</sup> Compl. at 3.

<sup>18</sup> Resp. at 1 (Dec. 7, 2016).

1 Federal office.”<sup>19</sup> In 2016, the maximum contribution that an individual could make to a  
2 candidate and his authorized committee was \$2,700 per election.<sup>20</sup>

3 Federal candidates, however, may make unlimited contributions from their “personal  
4 funds” to their authorized campaign committees.<sup>21</sup> The Act and Commission regulations provide  
5 that “personal funds” are (a) amounts derived from assets that, under applicable State law, the  
6 individual had legal right of access to, or control over, and to which the individual had legal and  
7 rightful title or an equitable interest at the time the individual became a candidate; and  
8 (b) income received during the current election cycle, which includes, among other things, salary  
9 from employment, income from investments, and “gifts of a personal nature that had been  
10 customarily received by the candidate prior to the beginning of the election cycle.”<sup>22</sup> If a  
11 candidate jointly owns an asset with a spouse, and there is no indication of the allocation of their  
12 ownership interests, the candidate’s “personal funds” would include half of the value of the  
13 property.<sup>23</sup>

14 Authorized committees must report all loans, including those made by the candidate.<sup>24</sup>  
15 The Committee must provide the identity of each person who makes a loan, together with the

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<sup>19</sup> 52 U.S.C. § 30101(8)(A)(i); 11 C.F.R. § 100.52(a).

<sup>20</sup> See 52 U.S.C. § 30116(a)(1)(A); Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold, 80 Fed. Reg. 5,750, 5,752 (Feb. 3, 2015).

<sup>21</sup> 11 C.F.R. § 110.10.

<sup>22</sup> 52 U.S.C. § 30101(26)(A)-(B); 11 C.F.R. § 100.33(a)-(b).

<sup>23</sup> 52 U.S.C. § 30101(26)(C); 11 C.F.R. § 100.33(c).

<sup>24</sup> 52 U.S.C. § 30104(b)(2)(G)-(H); 11 C.F.R. § 104.3(a)(3)(vii).

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1 identity of any endorser or guarantor, and the date and amount of the loan.<sup>25</sup> Committees are  
2 prohibited from knowingly accepting excessive contributions.<sup>26</sup>

3 Finally, the Act prohibits certain forms of contributions. A person may not make a  
4 contribution in the name of another, knowingly permit his name to be used to effect such a  
5 contribution, or assist any person in making a contribution in the name of another.<sup>27</sup> Individuals  
6 under the age of 18 (minors) may make a contribution only if: (a) "[t]he decision to contribute is  
7 made knowingly and voluntarily;" (b) the funds are owned and controlled by the minor, such as  
8 the minor's earned income, or funds from a trust for which the minor is the beneficiary, or funds  
9 withdrawn from an account held in the minor's name; and (c) the contribution is not made from  
10 funds controlled by another individual or "the proceeds of a gift, the purpose of which was to  
11 provide funds to be contributed."<sup>28</sup> Committees and candidates are barred from knowingly  
12 accepting contributions in the name of another,<sup>29</sup> and committees, through their treasurers, have a  
13 duty to examine all contributions for evidence of illegality and return contributions that appear to  
14 be illegal.<sup>30</sup>

15 Because Chabot's FD Reports are incomplete and contain numerous errors, the public  
16 record is unclear, and it is impossible to know whether the \$50,000 loan to the Committee came  
17 from Chabot's "personal funds" or from another source. First, Chabot filed his 2015 report a

<sup>25</sup> 52 U.S.C. § 30104(b)(3)(E); 11 C.F.R. § 104.3(a)(4)(iv).

<sup>26</sup> 52 U.S.C. § 30116(f); 11 C.F.R. § 110.9; *see also id.* § 100.52(b)(1)-(2) (stating that a loan that exceeds the contribution limit is unlawful).

<sup>27</sup> 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b)(i)-(iii).

<sup>28</sup> 11 C.F.R. § 110.19.

<sup>29</sup> 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b)(iv).

<sup>30</sup> *See* 11 C.F.R. § 103.3(b).

1 year late and did not indicate the time period covered by that report, or his 2016 report.<sup>31</sup> Thus,  
2 we do not know on which dates Chabot was measuring his assets, or during what timeframe  
3 particular assets increased or decreased.

4 Second, Chabot failed to provide information about the types of assets he and his family  
5 members owned, the institutions that held the assets, and whether the assets produced any  
6 income.<sup>32</sup> Thus, it is unclear which, if any, of Chabot's assets were liquid or could easily be  
7 converted to cash for the loan. The lack of identifying information also makes it difficult to track  
8 any particular asset across the reports.

9 Third, it appears that Chabot either did not disclose all of his assets or did not disclose his  
10 assets consistently across his reports. For example, it is not clear how Chabot and his wife's  
11 jointly-held assets increased by \$220,002-\$450,000 between the 2015 FD Report and 2016 FD  
12 Report,<sup>33</sup> when the couple's earned income appears to have increased only modestly during that  
13 time period.<sup>34</sup> Similarly, it is unclear how the children obtained their asset, as it appeared for the  
14 first time on the 2015 report and was already worth over \$50,000.<sup>35</sup>

15 Finally, the manner in which Chabot reported his earned income also suggests that the  
16 data in the FD Reports may be unreliable. In the 2015 FD Report, Chabot stated that he made  
17 \$25,000 during 2015 to the date of his report for his military service.<sup>36</sup> However, in the 2016 FD  
18 Report, Chabot reported \$16,905.38 as the amount he earned from his military service for all of

<sup>31</sup> See 2015 FD Report, *supra* note 9; 2016 FD Report, *supra* note 9.

<sup>32</sup> See 2014 FD Report, *supra* note 9; 2015 FD Report, *supra* note 9; 2016 FD Report, *supra* note 9.

<sup>33</sup> Compare 2015 FD Report, *supra* note 9, with 2016 FD Report, *supra* note 9.

<sup>34</sup> Compare 2014 FD Report, *supra* note 9, with 2015 FD Report, *supra* note 9, and with 2016 FD Report, *supra* note 9.

<sup>35</sup> Compare 2014 FD Report, *supra* note 9, with 2015 FD Report, *supra* note 9.

<sup>36</sup> 2015 FD Report, *supra* note 9.

1 2015.<sup>37</sup> This inconsistency in Chabot's disclosures, and his own statements expressing confusion  
2 with the FD Reports' instructions, suggests that he was uncertain of his reporting requirements.<sup>38</sup>

3 Given the significant problems with Chabot's financial disclosures, the public record is  
4 not clear as to the source of the funds for his loan to the Committee. On one hand, there is some  
5 information that Chabot made the loan from his children's asset, as alleged in the Complaint.

6 The 2015 FD Report disclosed a single asset belonging to Chabot's children worth \$50,001-  
7 \$100,000.<sup>39</sup> The value of that asset decreased to \$1-\$1,000 on the 2016 report, while no other  
8 asset visibly decreased by \$50,000 or more.<sup>40</sup> Thus, the children's asset decreased by  
9 approximately the same amount as the March 29, 2016, loan, and the decrease occurred during  
10 2015 or 2016, which corresponds to the timeframe of the loan.<sup>41</sup> On the other hand, though, it is  
11 possible that Chabot made the loan from one of the assets he owned jointly with his wife. The  
12 FD Reports use broad monetary ranges to describe the value of an asset, so Chabot could have  
13 made a \$50,000 loan and still correctly reported no change in the value range of the jointly  
14 owned asset.

15 Chabot's blanket denial does not assist the Commission in determining the source of the  
16 loan.<sup>42</sup> Without a more specific Response, and without accurate FD Reports, the public record  
17 regarding the source of the Committee's funding is murky.

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<sup>37</sup> 2016 FD Report, *supra* note 9.

<sup>38</sup> Chabot wrote a note on his 2014 FD Report stating that the form "was confusing to follow" and that "[t]he helpline was not very helpful." 2014 FD Report, *supra* note 9.

<sup>39</sup> 2015 FD Report, *supra* note 9.

<sup>40</sup> Compare 2015 FD Report, *supra* note 9, with 2016 FD Report, *supra* note 9. See also *supra* note 16, regarding an asset that disappeared from the 2016 FD Report.

<sup>41</sup> See Compl. at 2.

<sup>42</sup> While a "complaint can be dismissed if it is refuted with sufficiently compelling evidence," Factual & Legal Analysis at 5 ("F&LA"), MUR 5335R (Shehan) (internal quotation marks omitted), Chabot's unsworn blanket



1 To resolve the question of whether the \$50,000 loan came from Chabot's "personal  
2 funds," as the Committee represented in its 2016 April Quarterly Report, we recommend the  
3 Commission initiate an investigation.<sup>43</sup> The investigation will seek to learn the source of the  
4 loan and confirm whether there have been any reporting errors, or other violations of the Act  
5 related to the loan.<sup>44</sup>

6 Thus, we recommend that the Commission find reason to believe that the Committee  
7 failed to accurately report the source of the \$50,000 loan, in violation of 52 U.S.C. § 30104(b),<sup>45</sup>  
8 and take no action at this time against Chabot.

### 9 **III. PROPOSED INVESTIGATION**

10 We intend to determine what the Committee knew regarding the source of the loan when  
11 it filed its April 2016 Quarterly Report. We will also seek information from Chabot to clarify his  
12 assets and income at the time of the loan to determine whether he had sufficient personal funds  
13 to lend the Committee \$50,000. Although we plan to use informal investigative methods, we

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denial provides no evidence to effectively counter the Complaint's observations and the information disclosed in the FD Reports.

<sup>43</sup> See Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement Process, 72 Fed. Reg. 12,545, 12,545 (Mar. 16, 2007) ("The Commission will find 'reason to believe' in cases where the available evidence in the matter is at least sufficient to warrant conducting an investigation, and where the seriousness of the alleged violation warrants either further investigation or immediate conciliation."); *id.* (stating that a reason-to-believe finding indicates "only that the Commission found sufficient legal justification to open an investigation to determine whether a violation of the Act has occurred").

<sup>44</sup> There is information in the record suggesting that the children's account was the source of some or all of the loan. If that is the case, the Committee would be liable for accepting an excessive contribution and Chabot for using his name to effect a contribution in the name of another. Therefore, we recommend that the Commission's investigation focus on the source of the loan, thus inherently putting Chabot and the Committee on notice of potential 52 U.S.C. §§ 30116(f) and 30122 issues. Should the investigation produce evidence that the loan came from the children's account, we will make appropriate recommendations at that time.

<sup>45</sup> In several recent matters, the Commission has found reason to believe that a campaign committee violated 52 U.S.C. § 30104(b) by misreporting that contributions came from the candidate instead of the actual source of the funds.

F&LA at 4-6, MUR 6566 (Lisa Wilson-Foley for Congress) (open matter);  
F&LA at 5-8, MURs 6363/6440 (Friends of Frank Guinta).

1 recommend that the Commission authorize the use of compulsory process, which we would use  
2 in the event the parties do not cooperate in providing this information.

3 **IV. RECOMMENDATIONS**

- 4 1. Find reason to believe that Paul Chabot Congress and Kelly Lawler in her official  
5 capacity as treasurer violated 52 U.S.C. § 30104(b);  
6  
7 2. Take no action at this time with respect to Paul R. Chabot;  
8  
9 3. Authorize the use of compulsory process, as necessary;  
10  
11 4. Approve the attached Factual and Legal Analysis; and  
12  
13 5. Approve the appropriate letters.  
14  
15  
16

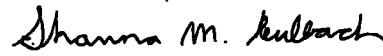
17 Lisa J. Stevenson  
18 Acting General Counsel  
19  
20

21 Kathleen M. Guith  
22 Associate General Counsel for Enforcement  
23  
24

25 5.18.17  
26 Date

27   
28 Stephen A. Gura  
29 Deputy Associate General Counsel for Enforcement  
30

31   
32 Lynn Y. Tran  
33 Assistant General Counsel  
34

35   
36 Shanna M. Reulbach  
37 Attorney  
38

39  
40 Attachment  
41 Factual and Legal Analysis

**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Paul Chabot Congress and Kelly Lawler MUR: 7133  
in her official capacity as treasurer

**I. INTRODUCTION**

This matter was generated by a Complaint filed with the Federal Election Commission (the "Commission") by Howard S. Morris. The Complaint alleges that Paul Chabot's principal campaign committee, Paul Chabot Congress and Kelly Lawler in her official capacity as treasurer (the "Committee"), failed to accurately report the source of a March 2016 loan to the Committee. The Committee reported that Chabot loaned his campaign \$50,000 from his "personal funds," but the Complaint argues that the loan actually came from an account owned by Chabot's minor children. Therefore, the Complaint alleges, the Committee violated the Federal Election Campaign Act of 1971, as amended (the "Act"), by accepting an excessive contribution and misreporting the source of the contribution. Because the source of the funds Chabot used for the loan is unclear, the Commission finds reason to believe that the Committee violated 52 U.S.C. § 30104(b).

**II. FACTUAL AND LEGAL ANALYSIS**

**A. Factual Background**

Chabot was a candidate for Congress in California's 31<sup>st</sup> Congressional District during the 2014 and 2016 election cycles.<sup>1</sup> Paul Chabot Congress, Chabot's principal campaign

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6 disbursement to Chabot on April 11, 2016, and a second \$25,000 disbursement to Chabot on  
7 April 14, 2016.<sup>6</sup>

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9 Complaint deduces that the \$50,000 loan on March 29, 2016, must have come from the  
10 children’s asset — allegedly the only asset that decreased in value.<sup>16</sup> Accordingly, the  
11 Complaint argues that the Committee violated the Act by accepting an excessive contribution

<sup>10</sup> 2014 FD Report, *supra* note 9.

<sup>11</sup> 2015 FD Report, *supra* note 9; 2016 FD Report, *supra* note 9.

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<sup>16</sup> *Id.* The Complaint fails to acknowledge that Chabot also had an individually-held asset, worth a maximum of \$15,000, that disappeared between the 2015 and 2016 reports. Compare 2015 FD Report, *supra* note 9, with 2016 FD Report, *supra* note 9. However, because the March 29, 2016, loan was for \$50,000, Chabot could not have used his \$15,000 asset alone to finance the loan. Thus, the Complaint, construed in the light of this information, appears to allege that the children’s asset was the only asset that decreased *by enough* to cover the loan.

1 and failing to accurately report the source of the contribution.<sup>17</sup> The Committee did not respond  
2 to the Complaint.

3 **B. Legal Analysis**

4 The Act defines "contribution" as "any gift, subscription, loan, advance, or deposit of  
5 money or anything of value made by any person for the purpose of influencing any election for  
6 Federal office."<sup>18</sup> In 2016, the maximum contribution that an individual could make to a  
7 candidate and his authorized committee was \$2,700 per election.<sup>19</sup>

8 Federal candidates, however, may make unlimited contributions from their "personal  
9 funds" to their authorized campaign committees.<sup>20</sup> The Act and Commission regulations provide  
10 that "personal funds" are (a) amounts derived from assets that, under applicable State law, the  
11 individual had legal right of access to, or control over, and to which the individual had legal and  
12 rightful title or an equitable interest at the time the individual became a candidate; and  
13 (b) income received during the current election cycle, which includes, among other things, salary  
14 from employment, income from investments, and "gifts of a personal nature that had been  
15 customarily received by the candidate prior to the beginning of the election cycle."<sup>21</sup> If a  
16 candidate jointly owns an asset with a spouse, and there is no indication of the allocation of their

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<sup>17</sup> Compl. at 3.

<sup>18</sup> 52 U.S.C. § 30101(8)(A)(i); 11 C.F.R. § 100.52(a).

<sup>19</sup> See 52 U.S.C. § 30116(a)(1)(A); Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold, 80 Fed. Reg. 5,750, 5,752 (Feb. 3, 2015).

<sup>20</sup> 11 C.F.R. § 110.10.

<sup>21</sup> 52 U.S.C. § 30101(26)(A)-(B); 11 C.F.R. § 100.33(a)-(b).

1 ownership interests, the candidate's "personal funds" would include half of the value of the  
2 property.<sup>22</sup>

3 Authorized committees must report all loans, including those made by the candidate.<sup>23</sup>  
4 The Committee must provide the identity of each person who makes a loan, together with the  
5 identity of any endorser or guarantor, and the date and amount of the loan.<sup>24</sup> Committees are  
6 prohibited from knowingly accepting excessive contributions.<sup>25</sup> Committees, through their  
7 treasurers, have a duty to examine all contributions for evidence of illegality and return  
8 contributions that appear to be illegal.<sup>26</sup>

9 Because Chabot's FD Reports are incomplete and contain numerous errors, the public  
10 record is unclear, and it is impossible to know whether the \$50,000 loan to the Committee came  
11 from Chabot's "personal funds" or from another source. First, Chabot filed his 2015 report a  
12 year late and did not indicate the time period covered by that report, or his 2016 report.<sup>27</sup> Thus,  
13 we do not know on which dates Chabot was measuring his assets, or during what timeframe  
14 particular assets increased or decreased.

15 Second, Chabot failed to provide information about the types of assets he and his family  
16 members owned, the institutions that held the assets, and whether the assets produced any

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<sup>22</sup> 52 U.S.C. § 30101(26)(C); 11 C.F.R. § 100.33(c).

<sup>23</sup> 52 U.S.C. § 30104(b)(2)(G)-(H); 11 C.F.R. § 104.3(a)(3)(vii).

<sup>24</sup> 52 U.S.C. § 30104(b)(3)(E); 11 C.F.R. § 104.3(a)(4)(iv).

<sup>25</sup> 52 U.S.C. § 30116(f); 11 C.F.R. § 110.9; *see also id.* § 100.52(b)(1)-(2) (stating that a loan that exceeds the contribution limit is unlawful).

<sup>26</sup> *See* 11 C.F.R. § 103.3(b).

<sup>27</sup> *See* 2015 FD Report, *supra* note 9; 2016 FD Report, *supra* note 9.

1 income.<sup>28</sup> Thus, it is unclear which, if any, of Chabot's assets were liquid or could easily be  
2 converted to cash for the loan. The lack of identifying information also makes it difficult to track  
3 any particular asset across the reports.

4 Third, it appears that Chabot either did not disclose all of his assets or did not disclose his  
5 assets consistently across his reports. For example, it is not clear how Chabot and his wife's  
6 jointly-held assets increased by \$220,002-\$450,000 between the 2015 FD Report and 2016 FD  
7 Report,<sup>29</sup> when the couple's earned income appears to have increased only modestly during that  
8 time period.<sup>30</sup> Similarly, it is unclear how the children obtained their asset, as it appeared for the  
9 first time on the 2015 report and was already worth over \$50,000.<sup>31</sup>

10 Finally, the manner in which Chabot reported his earned income also suggests that the  
11 data in the FD Reports may be unreliable. In the 2015 FD Report, Chabot stated that he made  
12 \$25,000 during 2015 to the date of his report for his military service.<sup>32</sup> However, in the 2016 FD  
13 Report, Chabot reported \$16,905.38 as the amount he earned from his military service for all of  
14 2015.<sup>33</sup> This inconsistency in Chabot's disclosures, and his own statements expressing confusion  
15 with the FD Reports' instructions, suggests that he was uncertain of his reporting requirements.<sup>34</sup>

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<sup>28</sup> See 2014 FD Report, *supra* note 9; 2015 FD Report, *supra* note 9; 2016 FD Report, *supra* note 9.

<sup>29</sup> Compare 2015 FD Report, *supra* note 9, with 2016 FD Report, *supra* note 9.

<sup>30</sup> Compare 2014 FD Report, *supra* note 9, with 2015 FD Report, *supra* note 9, and with 2016 FD Report, *supra* note 9.

<sup>31</sup> Compare 2014 FD Report, *supra* note 9, with 2015 FD Report, *supra* note 9.

<sup>32</sup> 2015 FD Report, *supra* note 9.

<sup>33</sup> 2016 FD Report, *supra* note 9.

<sup>34</sup> Chabot wrote a note on his 2014 FD Report stating that the form "was confusing to follow" and that "[t]he helpline was not very helpful." 2014 FD Report, *supra* note 9.



1           Given the significant problems with Chabot's financial disclosures, the public record is  
2   not clear as to the source of the funds for his loan to the Committee. On one hand, there is some  
3   information that Chabot made the loan from his children's asset, as alleged in the Complaint.  
4   The 2015 FD Report disclosed a single asset belonging to Chabot's children worth \$50,001-  
5   \$100,000.<sup>35</sup> The value of that asset decreased to \$1-\$1,000 on the 2016 report, while no other  
6   asset visibly decreased by \$50,000 or more.<sup>36</sup> Thus, the children's asset decreased by  
7   approximately the same amount as the March 29, 2016, loan, and the decrease occurred during  
8   2015 or 2016, which corresponds to the timeframe of the loan.<sup>37</sup> On the other hand, though, it is  
9   possible that Chabot made the loan from one of the assets he owned jointly with his wife. The  
10   FD Reports use broad monetary ranges to describe the value of an asset, so Chabot could have  
11   made a \$50,000 loan and still correctly reported no change in the value range of the jointly  
12   owned asset. Without a Response from the Committee, and without accurate FD Reports, the  
13   public record regarding the source of the Committee's funding is murky.

14           As there is information that the loan may have come from the children's asset,<sup>38</sup> the  
15   Commission finds reason to believe that the Committee failed to accurately report the source of  
16   Chabot's \$50,000 loan,<sup>39</sup> in violation of 52 U.S.C. § 30104(b).<sup>40</sup>

<sup>35</sup>       2015 FD Report, *supra* note 9.

<sup>36</sup>       Compare 2015 FD Report, *supra* note 9, with 2016 FD Report, *supra* note 9. See also *supra* note 16,  
regarding an asset that disappeared from the 2016 FD Report.

<sup>37</sup>       See Compl. at 2.

<sup>38</sup>       There is information in the record suggesting that the children's account may be the source of some or all  
of the loan, raising the possibility that the Committee could be liable for accepting an excessive contribution, in  
violation of 52 U.S.C. § 30116(f). Furthermore, failure to report the true source of the loan also raises the possibility  
of a violation of 52 U.S.C. § 30122, the prohibition on contributions in the name of another.

<sup>39</sup>       See Statement of Policy Regarding Commission Action in Matters at the Initial Stage in the Enforcement  
Process, 72 Fed. Reg. 12,545, 12,545 (Mar. 16, 2007) ("The Commission will find 'reason to believe' in cases  
where the available evidence in the matter is at least sufficient to warrant conducting an investigation, and where the

seriousness of the alleged violation warrants either further investigation or immediate conciliation.”); *id.* (stating that a reason-to-believe finding indicates “only that the Commission found sufficient legal justification to open an investigation to determine whether a violation of the Act has occurred”).

<sup>40</sup> In past matters, the Commission has found reason to believe that a campaign committee violated 52 U.S.C. § 30104(b) by misreporting that contributions came from the candidate instead of the actual source of the funds. *See, e.g.*, Factual & Legal Analysis at 5-8, MURs 6363/6440 (Friends of Frank Guinta).

**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

RESPONDENT: Paul Chabot Congress and Kelly Lawler MUR: 7133  
in her official capacity as treasurer

**I. INTRODUCTION**

This matter was generated by a Complaint filed with the Federal Election Commission (the "Commission") by Howard S. Morris. The Complaint alleges that Paul Chabot's principal campaign committee, Paul Chabot Congress and Kelly Lawler in her official capacity as treasurer (the "Committee"), failed to accurately report the source of a March 2016 loan to the Committee. The Committee reported that Chabot loaned his campaign \$50,000 from his "personal funds," but the Complaint argues that the loan actually came from an account owned by Chabot's dependent children. Therefore, the Complaint alleges, the Committee violated the Federal Election Campaign Act of 1971, as amended (the "Act"), by accepting an excessive contribution and misreporting the source of the contribution. Because the evidence in the record does not indicate that Chabot had insufficient personal funds from which to loan the Committee \$50,000, the Commission finds no reason to believe that the Committee violated 52 U.S.C. § 30104(b).

**II. FACTUAL AND LEGAL ANALYSIS**

**A. Factual Background**

Chabot was a candidate for Congress in California's 31<sup>st</sup> Congressional District during the 2014 and 2016 election cycles.<sup>1</sup> Paul Chabot Congress, Chabot's principal campaign

<sup>1</sup> Paul R. Chabot, Amended Statement of Candidacy (Oct. 26, 2014); Paul R. Chabot, Statement of Candidacy (Feb. 23, 2015).

committee,<sup>2</sup> disclosed in its 2016 April Quarterly Report that Chabot loaned the Committee \$50,000 on March 29, 2016, two days before the close of the quarterly reporting period.<sup>3</sup> The Committee identified the source of the loan as Chabot's "personal funds" and stated that the loan was for the 2016 primary election.<sup>4</sup> The Committee's subsequent 2016 Pre-Primary Report revealed that the Committee had paid back the loan by April 14, 2016.<sup>5</sup> It made one \$25,000 disbursement to Chabot on April 11, 2016, and a second \$25,000 disbursement to Chabot on April 14, 2016.<sup>6</sup>

The Complaint alleges that, contrary to the Committee's 2016 April Quarterly Report, the loan appears to have come from an account held by Chabot's dependent children.<sup>7</sup> The Complaint bases its allegation on Chabot's Financial Disclosure Reports ("FD Reports") to the U.S. House of Representatives.<sup>8</sup>

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<sup>2</sup> Statement of Organization, Paul Chabot Congress (Feb. 25, 2014).

<sup>3</sup> Schedule C, 2016 April Quarterly Report, Paul Chabot Congress (April 15, 2016).

<sup>4</sup> *Id.*

<sup>5</sup> Schedules B and C, 2016 Pre-Primary Report, Paul Chabot Congress (May 26, 2016).

<sup>6</sup> *Id.*

<sup>7</sup> Compl. at 1-2 (Sept. 12, 2016).

<sup>8</sup> Compl. at 2.

During the 2016 election cycle, Chabot filed two reports on May 16, 2016.<sup>9</sup> He stated that one report was for “filing year 2015” and the other was for “filing year 2016.”<sup>10</sup> Chabot did not indicate with any more specificity which dates the 2015 and 2016 reports covered.<sup>11</sup>

The Complaint observes that, in the 2015 FD Report, Chabot reported an asset worth \$50,001-\$100,000 held by one or more of his dependent children.<sup>12</sup> In the 2016 FD Report, however, that asset was shown as being worth only \$1-\$1,000.<sup>13</sup> The Complaint speculates that the \$50,000 loan on March 29, 2016, must have come from the children’s asset — allegedly the only asset that decreased in value.<sup>14</sup> Accordingly, the Complaint argues that the Committee violated the Act by accepting an excessive contribution and failing to accurately report the source of the contribution.<sup>15</sup> Chabot responded that the Complaint was meritless.<sup>16</sup>

#### **B. Legal Analysis**

The Act defines “contribution” as “any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for

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<sup>9</sup> Paul R. Chabot, Filing Year 2015 Financial Disclosure Report, Office of the Clerk of the U.S. House of Representatives (May 16, 2016) (“2015 FD Report”); Paul R. Chabot, Filing Year 2016 Financial Disclosure Report, Office of the Clerk of the U.S. House of Representatives (May 16, 2016) (“2016 FD Report”).

<sup>10</sup> 2015 FD Report, *supra* note 9; 2016 FD Report, *supra* note 9.

<sup>11</sup> 2015 FD Report, *supra* note 9; 2016 FD Report, *supra* note 9.

<sup>12</sup> Compl. at 2.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

<sup>15</sup> Compl. at 3.

<sup>16</sup> See Chabot Response.

1 Federal office.”<sup>17</sup> In 2016, the maximum contribution that an individual could make to a  
2 candidate and his authorized committee was \$2,700 per election.<sup>18</sup>

3 Federal candidates, however, may make unlimited contributions from their own “personal  
4 funds” to their authorized campaign committees.<sup>19</sup> The Act and Commission regulations provide  
5 that “personal funds” are (a) amounts derived from assets that, under applicable State law, the  
6 individual had legal right of access to, or control over, and to which the individual had legal and  
7 rightful title or an equitable interest at the time the individual became a candidate; and  
8 (b) income received during the current election cycle, which includes, among other things, salary  
9 from employment, income from investments, and “gifts of a personal nature that had been  
10 customarily received by the candidate prior to the beginning of the election cycle.”<sup>20</sup> If a  
11 candidate jointly owns an asset with a spouse, and there is no instrument or state law indicating  
12 the allocation of their ownership interests, the candidate’s “personal funds” would include half of  
13 the value of the property.<sup>21</sup>

<sup>17</sup> 52 U.S.C. § 30101(8)(A)(i); 11 C.F.R. § 100.52(a).

<sup>18</sup> See 52 U.S.C. § 30116(a)(1)(A); Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold, 80 Fed. Reg. 5,750, 5,752 (Feb. 3, 2015).

<sup>19</sup> 11 C.F.R. § 110.10.

<sup>20</sup> 52 U.S.C. § 30101(26)(A)-(B); 11 C.F.R. § 100.33(a)-(b).

<sup>21</sup> 52 U.S.C. § 30101(26)(C); 11 C.F.R. § 100.33(c).

1 Authorized committees must report all loans, including those made by the candidate.<sup>22</sup>

2 The Committee must provide the identity of each person who makes a loan, together with the  
3 identity of any endorser or guarantor, and the date and amount of the loan.<sup>23</sup>

4 Committees are prohibited from knowingly accepting excessive contributions.<sup>24</sup>

5 Committees, through their treasurers, have a duty to examine all contributions for evidence of  
6 illegality and return contributions that appear to be illegal.<sup>25</sup>

7 Here, the evidence in the record does not support a reason to believe finding that the  
8 \$50,000 loan was made from funds not considered Chabot's "personal funds," as defined in  
9 Commission regulations. The Complaint does not provide specific evidence indicating that  
10 Chabot did not have legal right of access to or control over the \$50,000 loaned to the Committee,  
11 or that Chabot did not have a legal and rightful title or equitable interest in those funds at the  
12 time he became a candidate.<sup>26</sup>

13 Further, contrary to the allegations in the Complaint, Chabot's 2016 FD Report suggests  
14 Chabot may have held sufficient personal funds to loan the Committee \$50,000. The FD Reports

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<sup>22</sup> 52 U.S.C. § 30104(b)(2)(G)-(H); 11 C.F.R. § 104.3(a)(3)(vii).

<sup>23</sup> 52 U.S.C. § 30104(b)(3)(E); 11 C.F.R. § 104.3(a)(4)(iv).

<sup>24</sup> 52 U.S.C. § 30116(f); 11 C.F.R. § 110.9; *see also id.* § 100.52(b)(1)-(2) (stating that a loan that exceeds the contribution limit is unlawful).

<sup>25</sup> *See* 11 C.F.R. § 103.3(b).

<sup>26</sup> Because Chabot's FD Reports appear

incomplete, they do not establish that the \$50,000 loan to the Committee came from Chabot's "personal funds." Chabot filed his 2015 FD Report a year late and did not indicate the time period covered by that report, or his 2016 FD Report. Thus, it is not clear on which dates Chabot was measuring his assets, or during what timeframe particular assets increased or decreased in value. However, the fact that Chabot's FD Reports, standing alone, are unclear or incomplete is not a sufficient basis on which to find that Chabot violated the Act.

1 use broad monetary ranges to describe the value of an asset, and it is possible that Chabot made  
2 the loan from one of the assets he owned jointly with his wife. Thus, Chabot could have made a  
3 \$50,000 loan and still correctly reported no change in the value range of the jointly owned asset.  
4 For instance, taking into account one half of the assets reported as jointly owned in 2016 (and  
5 excluding the asset listed in 2016 as owned by his dependent children), Chabot's 2016 FD  
6 Report lists assets ranging from a minimum of \$200,505 to a maximum of \$426,000.<sup>27</sup> Thus,  
7 even by excluding an additional \$50,000-100,001 — which the 2015 FD Report listed as held by  
8 Chabot's children<sup>28</sup> — Chabot would have had personal funds of at least \$100,504, an amount  
9 sufficient to loan his campaign \$50,000.<sup>29</sup>

10 Because Chabot's FD Reports do not provide a sufficient basis on which to make a  
11 reason to believe finding, the Commission finds no reason to believe that the Committee failed to  
12 accurately report the source of Chabot's \$50,000 loan, in violation of 52 U.S.C. § 30104(b).

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<sup>27</sup> 2016 FD Report, *supra* note 9.

<sup>28</sup> 2015 FD Report, *supra* note 9.

<sup>29</sup> 2016 FD Report, *supra* note 9.